

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF RHODE ISLAND

IN RE: GILBERT LANTINI, II AND MICHELLE L LANTINI A/K/A MICHELLE L. WALKER A/K/A MICHELLE L. WALKER-LANTINI DEBTORS.	CASE NO. 14-11757-DF CHAPTER 7
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U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR THE REGISTERED  
HOLDERS OF AEGIS ASSET BACKED SECURITIES TRUST, MORTGAGE PASS-  
THROUGH CERTIFICATES, SERIES 2005-5

it's successors or assigns,

Movant.

v.

GILBERT LANTINI, II AND MICHELLE L LANTINI,

Debtors.

MOTION OF U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR THE  
REGISTERED HOLDERS OF AEGIS ASSET BACKED SECURITIES TRUST,  
MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2005-5 FOR RELIEF  
FROM THE AUTOMATIC STAY AND FOR LEAVE TO FORECLOSE MORTGAGE  
AND MEMORANDUM IN SUPPORT THEREOF

*The Debtors' Statement of Intention indicates that the Property which is the subject of this  
motion is to be surrendered.*

U.S. Bank National Association, as Trustee for the registered holders of Aegis  
Asset Backed Securities Trust, Mortgage Pass-Through Certificates, Series 2005-5  
(hereinafter "Movant") a secured creditor, hereby moves this Court for Relief from the  
Automatic Stay pursuant to Bankruptcy Rules 4001 and 9014 and 11 U.S.C. Section 362(d)  
and for leave to foreclose a certain mortgage encumbering the property owned by the  
Debtors, known as 2075 Plainfield Pike, Johnston, RI 02919. In support of this Motion,  
Movant states as follows:

1. This Court has jurisdiction over this proceeding pursuant to 28 U.S.C. 1334 and 28 U.S.C. 157(b)(2)(G). This case relates to a case under Title 11 of the United States Code (the “Bankruptcy Code”). This proceeding is a “core” proceeding as this term is defined in the Code.
2. On July 31, 2014, Gilbert Lantini, II and Michelle L Lantini a/k/a Michelle L. Walker a/k/a Michelle L. Walker-Lantini (hereinafter the “Debtors”) filed a voluntary Chapter 7 petition in Bankruptcy.
3. Movant is the current holder of a certain mortgage given by the Debtor Gilbert Lantini, II to Mortgage Electronic Registration Systems, Inc. acting solely as a nominee for Aegis Funding Corporation in the original principal amount of \$264,000.00 dated August 23, 2005, and recorded with the Town of Johnston Land Evidence Records in Book 1609, Page 27, (the “Mortgage”). The Mortgage secures a promissory note of even date and original principal amount given by the Debtor Gilbert Lantini, II to Aegis Funding Corporation (the “Note”) of which Movant is the current holder.
4. Mortgage Electronic Registration Systems, Inc. acting solely as a nominee for Aegis Funding Corporation assigned the mortgage to U.S. Bank National Association, as Trustee for the registered holders of Aegis Asset Backed Securities Trust, Mortgage Pass-Through Certificates, Series 2005-5 by assignment dated May 12, 2010 and recorded with the Town of Johnston Land Evidence Records in Book 2073, Page 9 a copy which is annexed here to as Exhibit A. The current loan servicer for the Movant is Ocwen Loan Servicing, LLC.
5. The Mortgage encumbers real property known as 2075 Plainfield Pike, Johnston, RI 02919 (hereinafter the “Property”). A copy of the Note and Mortgage are annexed hereto as Exhibits “B” and “C”. The Mortgage is in first lien position. Aside from the Property, there is no other collateral securing the Debtors' obligation to Movant.
6. The Debtors have defaulted on the Note and Mortgage by failing to make regular payments to Movant.
7. As of October 15, 2014, the balance due Movant on the Note was approximately \$205,378.46 (may not include negative escrow balances or recent escrow advances). The full amount of the Movant’s claim together with allowable post-petition interest,

reasonable attorneys fees, court costs, and other recoverable expenses is secured by the Mortgage.

8. According to the Debtors' Schedules, the fair market value of the Property is \$163,200.00. Accepting the Debtors' valuation for purposes of this motion only, the liquidation value of the Property is \$153,888.00 based upon a usual and customary broker's commission of \$8,160.00 (5% of stated fair market value), deed stamps of \$652.00 and \$500.00 in miscellaneous estimated closing costs.

9. As of the filing date of this motion, the Debtors' mortgage account is due for the November 1, 2013 contractual due date. The current monthly payment is \$1,581.60, subject to such subsequent adjustment as may be specified in the note.

10. As of the filing date of this Motion, Debtors owed Movant a total contractual arrearage of \$20,616.84 calculated as follows:

- 1 monthly payments (11/01/13 - 11/01/13) at \$1,531.36	\$1,531.36
- 11 monthly payments (12/01/13 - 10/01/14) at \$1,581.60	\$17,397.60
- Motion Fees and Costs	\$926.00
- Property Inspection Fees	\$61.50
- Certified Mail Costs	\$13.06
- NSF Fees	\$105.00
- Late Charges	\$1,397.08
- Suspense Balance	(\$815.00)

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Total Contractual Arrearage	\$20,616.84
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11. In addition to the Mortgage to Movant, there are outstanding liens on the Property as follows:

<u>Lien</u>	<u>Type</u>	<u>Amount</u>	<u>Book/Pg</u>
Movant	1 <sup>st</sup> Mortgage	\$205,378.46	1609/27
City Ntl Bk/Ocwen Loan Servicing, LLC	Junior Mortgage	\$60,594.00	1609/288

The total of all liens on the Property is approximately \$265,972.46.

12. Movant is entitled to Relief from the Automatic Stay for cause pursuant to Section 362(d)(1) of the Code inasmuch as the Debtors have failed to make regular

monthly mortgage payments to the Movant in violation of the terms of the Note and Mortgage.

13. Movant is entitled to Relief from the Automatic Stay and leave to foreclose its mortgage pursuant to 11 U.S.C. Section 362(d)(2) in that the Debtors have no equity in the Property above and beyond the Property's liquidation value and the Property is not necessary to an effective reorganization of the Debtors.
14. **Within fourteen (14) days after service as evidenced by the certification, and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if served by mail, any party against whom such paper has been served, or any other party who objects to the relief sought, shall serve and file an objection or other appropriate response to said paper with the Bankruptcy Court Clerk's Office, 380 Westminster Street, 6th Floor, Providence, RI 02903, (401) 626-3100. If no objection or other response is timely filed, the paper will be deemed unopposed and will be granted unless: (1) the requested relief is forbidden by law; (2) the requested relief is against public policy; or (3) in the opinion of the Court, the interest of justice requires otherwise.**

WHEREFORE, Movant requests that this Honorable Court:

- (a) Grant Movant Relief from the Automatic Stay pursuant to 11 U.S.C. Section 362(d) and for leave to Foreclose Mortgage, allowing Movant, its successors or assigns to foreclose said mortgage (including, at its sole option, leave to accept a deed-in-lieu of foreclosure from the Debtors, their heirs, successors, assigns or transferees); and for it or a third party purchaser to prosecute summary process proceedings to evict any persons residing in the Property.
- (b) In the alternative, order Debtors to provide Movant with adequate protection of its claim;  
and
- (c) Grant such other Relief as this Honorable Court may deem just.

Date: October 20, 2014

Respectfully submitted,  
U.S. Bank National Association, as Trustee for the  
registered holders of Aegis Asset Backed Securities  
Trust, Mortgage Pass-Through Certificates, Series  
2005-5  
by its attorney,

/s/ John S. McNicholas  
John S. McNicholas, Esquire  
RI# 8732  
Korde & Associates, P.C.  
321 Billerica Road, Suite 210  
Chelmsford, MA 01824-4100  
Tel: (978) 256-1500 ext. 203  
jmcnicholas@kordeassoc.com